

*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
WISE COUNTY PUBLIC SERVICE AUTHORITY  
FOR  
POUND WASTEWATER TREATMENT PLANT  
VPDES Permit No. VA0061913**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and the Wise County Public Service Authority, regarding the Pound Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation. This Consent Order supersedes and terminates the Consent Order and Consent Order Amendment issued to the Town of Pound for the Pound Wastewater Treatment Plant on January 5, 2016 and November 7, 2016, respectively.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters. The "303(d) report" is a subset of the "305(b) report".
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
6. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
  - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. “DMR” means Discharge Monitoring Report.
8. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. “Facility”, “Plant” or “WWTP” means the Pound Wastewater Treatment Plant, located at 11543 Old Mill Village Road, Pound, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Town of Pound.
10. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
12. “Permit” means VPDES Permit No. VA0061913, which was reissued under the State Water Control Law and the Regulation to the Town of Pound on May 1, 2019, transferred to the Wise County Public Service Authority through Minor Modification on June 9, 2021, and which will expire on April 30, 2024.
13. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

14. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
15. "Pound" or "Town" means the Town of Pound, a political subdivision of the Commonwealth of Virginia. Pound is a "person" within the meaning of Va. Code § 62.1-44.3.
16. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
18. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
19. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.
23. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
24. "Wise County PSA" or "PSA" means the Wise County Public Service Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.* The Wise County Public Service Authority is a "person" within the meaning of Va. Code § 62.1-44.3.

**SECTION C: Findings of Fact and Conclusions of Law**

1. The Wise County PSA did not create the issues and violations covered by this Order, but has taken over the failing wastewater treatment and collection systems from the Town of Pound in the best interests of the community and its citizens. The PSA has assumed significant debts and liabilities to do so, and it will take time to rectify the issues.
2. The Wise County PSA owns and operates the WWTP. The Permit allows the PSA to discharge treated sewage and other municipal wastes from the WWTP to the Pound River, in strict compliance with the terms and conditions of the Permit.
3. The Pound River is located in the Tennessee-big Sandy River Basin, Big Sandy River Subbasin, Section 4, Class IV, Special Standards: none. This segment of the Pound River is listed as impaired for both recreation and aquatic life use on the 303(d) report. The recreation use impairment is listed as E. coli, with the source identified as sewage discharges in unsewered areas. The aquatic life impairment is listed as benthic macroinvertebrate bioassessments, with the source identified as coal mining. A TMDL has not been developed for this segment of the river.
4. Effective January 5, 2016, the Town of Pound entered into a Consent Order with DEQ due to the following issues at the Facility: loss of solids events in the effluent; overflows into state waters; exceedance of Permit effluent limits for total suspended solids; inoperable equipment; and monthly average influent flows greater than or equal to the design flow capacity of the Facility. The Town entered into a Consent Order Amendment with DEQ on November 7, 2016, which increased the scope of both the Facility upgrade and collection system projects, while extending the timeline for completion of both projects. Per the Appendix A Schedule of Compliance included in the Consent Order Amendment, construction of the Facility upgrade project was to begin by October 15, 2018. DEQ never received notification from the Town that construction had commenced. Per the Appendix B Schedule of Compliance included in the Consent Order Amendment, the Town was to obtain DEQ approval of collection system project plans and specifications by April 1, 2018. The scope of work changed to the extent that approvable collection system project plans were not received by DEQ. The Town failed to meet the conditions required to obtain financing for both projects.
5. Facility representatives, employed by the Town, reported the following information to DEQ:
  - a. On March 1, 2021, an unusual discharge and high flows into the Facility occurred (Incident Report No. 298607). The Facility aeration system was turned off in order to reduce the loss of solids in the effluent. On March 2, 2021, the aeration system was turned back on.
  - b. On March 29, 2021, an unusual discharge and high flows into the Facility occurred (Incident Report No. 299020). The Facility aeration system was turned off on March 27, 2021 in order to reduce the loss of solids in the effluent. On April 1, 2021, the aeration system was reportedly turned back on, but was turned



off again on April 2, 2021 to reduce loss of solids due to high inflow. The aeration system remained off through the end of May 2021.

The Permit, at Part II, Section Q, states, in part: “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”

Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances...”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

6. On April 21, 2021, SWRO issued NOV No. W2021-04-S-0001 to the Town, citing failure to comply with a special order adopted by the Board; May 5-7, 2020 and August 2, 2020 sanitary sewer overflows; failure to properly report an August 2, 2020 sanitary sewer overflow; and the March 1, 2021 and March 29, 2021 unusual discharges and high influent flows described in paragraph C(4), above.
7. The Town of Pound submitted DMRs to SWRO which indicated that the Facility exceeded discharge limitations contained in Part I.A of the Permit, as described in the table below:

Parameter	Observations - DMR Monitoring Period and Relevant Reported Monitoring Results			Permit Limit
	April 2021	May 2021	June 2021	
310 CBOD <sub>5</sub> Dec-May average loading (kg/d)		93		47
310 CBOD <sub>5</sub> Dec-May maximum loading (kg/d)		111		71
309 CBOD <sub>5</sub> Jun-Nov maximum loading (kg/d)			47	43
310 CBOD <sub>5</sub> Dec-May average concentration (mg/L)	36	74		25
309 CBOD <sub>5</sub> Jun-Nov average concentration (mg/L) <sup>^</sup>			26	15
310 CBOD <sub>5</sub> Dec-May maximum concentration (mg/L)	42	101		38
309 CBOD <sub>5</sub> Jun-Nov maximum concentration (mg/L)			38	22
004 Total Suspended Solids average loading (kg/d)		65		57
004 Total Suspended Solids average concentration (mg/L)		52	37	30
004 Total Suspended Solids maximum concentration (mg/L)		74	58	45

The Permit, at Part I, Section A, sets forth the final effluent parameter permit limits. Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances...”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

8. Through an Intermunicipal Agreement for Consolidation of Public Water and Wastewater Systems, dated June 9, 2021, the Town of Pound agreed to convey ownership and operation of the Pound WWTP to the Wise County PSA. On June 9, 2021, the PSA took ownership of the Facility. A Change of Ownership Agreement for the Permit was signed by the Town of Pound on June 17, 2021 and by the PSA on June 22, 2021.
9. On June 29, 2021, ownership of the Permit was formally transferred to the PSA through a Minor Modification.
10. On July 7, 2021, operation of the WWTP transitioned from Veolia, the contract operator for the Town of Pound, to the Wise County PSA.
11. On July 12, 2021, SWRO water compliance staff conducted a Reconnaissance Evaluation Inspection of the Facility as a result of ongoing noncompliance and the recent transfer of ownership from the Town of Pound to the PSA. The following operational issues, which existed prior to acquisition of the Facility by the PSA, were observed during the inspection:
  - a. The mechanical bar screen was out of service. DEQ records indicate that this condition has persisted for more than eleven years, as documented during a December 8, 2009 DEQ technical inspection. This issue was to be addressed by a planned Facility upgrade that the Town of Pound failed to implement.
  - b. The mechanical grit auger was out of service. DEQ records indicate that this condition has persisted for more than five years, as documented during a September 29, 2015 DEQ comprehensive evaluation inspection.
  - c. The main pump station contained only one pump. A second pump was available at the WWTP but had not been installed due to damaged guide rails and internal components at the pump station, which had been compromised by corrosion and deterioration.
  - d. One of the two blowers for the activated sludge aeration system was inoperable. DEQ records indicate that this condition has persisted for more than eleven years, as documented during a December 8, 2009 DEQ technical inspection.

- e. Aeration unit components, including air lines and pumps, had deteriorated due to age and extended exposure to inorganics present in the system.
- f. The standby electric generator was inoperable. DEQ first documented the inoperable generator during an August 10, 2020 DEQ comprehensive evaluation inspection. During the July 12, 2021 DEQ inspection, a Facility representative informed DEQ that the generator had been inoperable since 2002.
- g. The internal components of both clarifiers were significantly worn and in need of replacement, as documented during an August 10, 2020 DEQ comprehensive evaluation inspection.
- h. Circa 2003, the Facility's chlorination unit was converted from a gas feed system to a liquid system due to safety concerns. The chlorine contact tanks currently utilized in the system were designed to be operated with a gas feed chlorine system. DEQ records include neither a certificate to construct nor a certificate to operate this equipment.
- i. The Facility experiences extensive inflow and infiltration, as documented during an August 10, 2020 DEQ comprehensive evaluation inspection and in the overflow/bypass reports submitted to DEQ by the Town of Pound.
- j. The Facility has historically been operated with high levels of sludge in the Plant, which is problematic during heavy rainfall events. At the time of the inspection, the Facility did not possess a sludge press on site. As documented in the July 12, 2021 DEQ inspection report, the PSA advised that a sludge belt press had been ordered for the Facility.

The Permit, at Part II, Section Q, states, in part: "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."

The Permit, at Part I, Section E(3), states: "The permittee shall, in accordance with the DEQ Sewage Collection and Treatment Regulation (9VA[C]25-790), obtain a Certificate to Construct (CTC) and a Certificate to Operate (CTO) from the DEQ Southwest Regional Office. The request for a CTC or CTO shall be submitted by the design engineer or owner to the DEQ Southwest Regional Office prior to constructing wastewater treatment plant works and operating the treatment works. Non-compliance with the CTC or CTO shall be deemed a violation of the permit.

The Permit, at Part II, Section F, states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life,

or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.”

The Permit, at Part II, Section L, states, in part: “The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.”

Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances...”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

12. On July 30, 2021, SWRO issued NOV No. W2021-07-S-0003 to the PSA, citing the April through June 2021 violations of permitted effluent limits, as described in paragraph C(6), above, and the operational issues described in paragraph C(10), above. The cited violations occurred while the Facility was owned by Pound and operated by Veolia.
13. On August 2, 2021, the PSA provided an initial telephone response to the July 30, 2021 NOV. The PSA advised that a written NOV response would follow.
14. On August 3, 2021, the PSA provided a written response to the July 30, 2021 NOV. The response detailed transfer of Facility and Permit ownership from the Town of Pound to the PSA and transfer of Facility operation from Veolia to the PSA. The response also acknowledged the PSA’s awareness of the operational issues existing at the WWTP. The PSA indicated that it intends to address Facility issues through capital improvement projects encompassing both the WWTP and the associated collection system. The PSA stated that it is working to expedite two existing DEQ Clean Water Revolving Loan Finance (CWRLF) projects that were transferred to the PSA from the Town of Pound, which include the Lower Bold Camp Sewer Replacement project and the Pound WWTP Rehabilitation project. The PSA advised that it had also submitted an application for FY22 CWRLF funds for the Pound River Interceptor Replacement project, which entails replacement of approximately 15,000 linear feet of sewer line located in the Pound River. The project proposes relocation of the sewer line to areas lying outside the flow path of the Pound River. The PSA stated that it had deployed portable flow meters to aid in identification of areas of inflow and infiltration in the outer trunk lines of the collection system, with meters placed along Bold Camp Creek, Indian Creek, Mill Creek, South Fork Pound River, and the Pound River. The PSA also stated that it had purchased a CCTV system that is to be utilized for camera surveys of the collection system. The

response included a tentative estimated schedule for flow monitoring, camera surveying, and upgrade projects and indicated that an estimated five to seven years will be required for completion of collection system repairs in order to minimize inflow and infiltration issues.

15. On August 18, 2021, PSA staff reported the occurrence of an unauthorized discharge from the Facility due to excess inflow resulting from heavy rainfall during the preceding days (Incident Report No. 300614). In anticipation of the forecast heavy rainfall event, Facility staff had implemented preliminary preventative measures to minimize any unauthorized discharges. The unauthorized discharge was properly reported to DEQ, as required by the Permit.

The Permit, at Part II, Section Q, states, in part: “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”

Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances...”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

16. The Facility has an average design flow capacity of 0.50 million gallons per day. A review of DMRs recently submitted to DEQ by the Facility indicated that monthly average influent flows were equal to, or in excess of, ninety-five percent of the design flow capacity for a three consecutive month period, from August 2021 through October 2021. DEQ records indicate that the Facility routinely experienced monthly average influent flows equal to, or in excess of, ninety-five percent of the design flow capacity for a number of years prior to acquisition by the Wise County PSA.

The Permit, at Part I, Section E(1), states that a written notice and a plan of action for ensuring continued compliance with the terms of this permit shall be submitted to DEQ when the monthly average flow influent to the sewage treatment plant reaches ninety-five percent of the design capacity authorized in this permit for each month of any three consecutive month period. The plan of action shall be received by DEQ no later than ninety (90) days from the third consecutive month for which the flow reached ninety-five percent of the design capacity.

17. A review of flow data submitted to DEQ by the PSA indicated that influent to the Facility consistently exceeded effluent from the Facility during September 2021, October 2021, and November 2021, indicating a potential issue with flow monitoring equipment, or other equipment internal to the WWTP.

18. On February 26, 2022, PSA staff reported the occurrence of an unauthorized discharge from the collection system (Incident Report No. 303517). The discharge reportedly began during the night of February 25, 2022 as a result of flood waters washing out an aerial crossing on Bold Camp Creek after heavy rainfall events during the preceding days. The PSA reported that the aerial crossing was replaced and the unauthorized discharge stopped at approximately 6:00 PM on February 26, 2022. The unauthorized discharge was properly reported to DEQ, as required by the Permit.

The Permit, at Part II, Section Q, states, in part: “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”

Va. Code § 62.1-44.5 states, in part: “Except in compliance with a certificate or permit issued by the Board..., it shall be unlawful for any person to... [d]ischarge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances...”

The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

19. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
20. The Department has issued no permits or certificates to the PSA for the Pound WWTP other than VPDES Permit No. VA0061913.
21. The Pound River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
22. Based on the results of July 12, 2021 DEQ inspection, the August 2, 2021 telephone call between DEQ and the PSA, and the August 3, 2021 correspondence from the PSA to DEQ, the Board concludes that the Wise County PSA has violated the Permit, Va. Code § 62.1-44.5, and the Regulation 9 VAC 25-31-50, by discharging treated, partially treated, and untreated sewage and municipal wastes from the Plant and collection system while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(3) through C(18), above. Due to the degraded condition of the Facility and associated collection system at time of acquisition from the Town by the PSA, the PSA has been unable to fully comply with the Permit, State Water Control Law, and regulation.
23. In order for the PSA to complete its return to compliance, DEQ staff and representatives of the PSA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.



24. The collection system rehabilitation projects, proposed by the PSA and required by Appendix A of this Order, constitute a plan of action, in accordance with Part I, Section E(1) of the Permit, for addressing the issues described in paragraph C(16), above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the Wise County Public Service Authority, and the Wise County Public Service Authority agrees to perform the actions described in Appendix A of this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of the Wise County PSA for good cause shown by the PSA, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, in NOV No. W2021-04-S-001, dated April 21, 2021, and in NOV No. W2021-07-S-0003, dated July 30, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the PSA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The PSA consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The PSA declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the PSA to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The PSA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The PSA shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The PSA shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

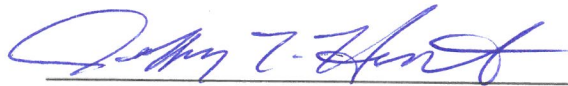
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the PSA. Nevertheless, the PSA agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. the Director or his designee terminates the Order after the PSA has completed all of the requirements of the Order;
  - b. the PSA petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the PSA.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the PSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the PSA and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the PSA certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the PSA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the PSA.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, the PSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 01<sup>st</sup> day of June, 2022.



Jeffrey L. Hurst, Regional Director  
Department of Environmental Quality

The Wise County Public Service Authority voluntarily agrees to the issuance of this Order.

Date: 3/28/22 By: C. A. G., Executive Director  
(Person) (Title)  
Wise County Public Service Authority

Commonwealth of Virginia

City/County of Wise

The foregoing document was signed and acknowledged before me this 28th day of  
March, 2022 by Cady McElroy who is  
Executive Director of the Wise County Public Service Authority, on behalf of  
the authority.

Marsha L. Lewis  
Notary Public

788 2129  
Registration No.

My commission expires: 11/30/2024

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

In order to comply with the provisions of the State Water Control Law, the Regulation, and the Permit, the Wise County PSA agrees to implement the following actions by the dates noted below:

1. Submit updated plans and specifications for the Pound WWTP Rehabilitation project to DEQ for review and approval by August 31, 2022.
2. Issue Notice to Proceed for the Lower Bold Camp Sewer project by December 1, 2024.
3. Issue Notice to Proceed for the Pound WWTP Rehabilitation project by January 2, 2025.
4. Submit plans and specifications for the Pound River Interceptor project to DEQ for review and approval by July 31, 2025.
5. Issue Notice to Proceed for the Pound River Interceptor project by July 1, 2026.
6. Achieve final completion for construction and obtain a Certificate to Operate for the Lower Bold Camp Sewer project by December 31, 2026.
7. Achieve final completion for construction and obtain Certificate to Operate for the Pound WWTP Rehabilitation project by July 31, 2027.
8. Achieve final completion for construction and obtain a Certificate to Operate for the Pound River Interceptor project by December 31, 2028.
9. Complete a flow monitoring study of the collection system in order to identify sources of inflow and infiltration, and submit a report summarizing findings of the study by July 29, 2030.
10. Complete a CCTV camera survey of the collection system, and submit a report summarizing findings of the survey by October 3, 2030.
11. Provide a Preliminary Engineering Report (PER) for rehabilitation of the collection system sections not included in the projects noted in this schedule by July 31, 2031. The PER shall:  
a) detail all issues identified during collection system studies and surveys; b) clearly identify the recommended scope of work for repair of the issues; and c) include defined project schedule(s) and completion date(s) for collection system rehabilitation projects. Upon review and approval by DEQ, the PER and associated project schedule(s) will be incorporated into this Order and will become enforceable.
12. Achieve final completion for construction of collection system project(s) identified by the PER, required by Item 11 above, by the dates set forth in the PER project schedule(s).

13. Submit semi-annual progress reports regarding the items outlined in this Schedule of Compliance.
14. Submit a completion report within 30 days of completion of any item required by this Schedule of Compliance.

Unless otherwise specified in this Order, the PSA shall submit all requirements of Appendix A of this Order to:

Ruby Scott  
Compliance Auditor  
VA DEQ – Southwest Regional Office  
355-A Deadmore Street  
Phone: (276) 676-4882  
[ruby.scott@deq.virginia.gov](mailto:ruby.scott@deq.virginia.gov)